

property due to any condition of the Leased Premises which may now exist or subsequently occur except to the extent attributable to Lessor's gross negligence or willful misconduct. Lessee, with respect to itself and its agents, employees, servants and invitees, hereby assumes all risk of injuries or death to persons and damage to property, either proximate or remote by reason of the present or future condition of the Leased Premises except to the extent attributable to Lessor's gross negligence or willful misconduct. Lessee agrees that it will indemnify and hold Lessor harmless of, from, and against all suits, claims, and actions of every kind by reason of any breach, violation, or non-performance of any of the terms or conditions on the part of Lessee hereunder. Additionally, Lessee agrees to indemnify and hold Lessor harmless of, from, and against all claims, actions, damages, liabilities, and expenses asserted against Lessor on account of injuries or death to persons or damage to property when and to the extent that any such damage, injury or death may be caused, either proximate or remote, wholly or in part by an act or omission, whether negligent or not, of Lessee or any of its agents, servants, employees, contractors, patrons or invitees or of any other person entering upon the Leased Premises under or with the express or implied invitation of Lessee, or if any such injury, death or damage may in any way arise from or out of the occupancy or use by Lessee, its agents, employees, and invitees of the Leased Premises.

(b) Lessor agrees that it will indemnify and hold harmless Lessee of, from, and against all suits, claims and actions of every kind by reason of any breach violation or non-performance of any of the terms or conditions on the part of Lessor hereunder. Additionally, Lessor agrees to indemnify and hold Lessee harmless of, from, and against all claims, actions, damages, liabilities, and expenses asserted against Lessee on account of injuries or death to persons or damage to property when and to the extent that any such damage, injury or death may be caused, either proximate or remote, wholly or in part by an act or omission, whether negligent or not, of Lessor or any of its agents, servants, employees, contractors, patrons or invitees or of any other person entering

upon the Leased Premises under or with the express or implied invitation of Lessor, or if any such injury, death or damage may in any way arise from or out of the occupancy or use by Lessor, its agents, employees, and invitees of the Leased Premises.

#### **XI.**

Lessee shall deliver to Lessor a waiver of subrogation from each of the insurance companies issuing policies insuring Lessee's interest in the Leased Premises, the Additional Property and all other property of Lessee which may exist at any time on the Leased Premises. Accordingly, in the event of any damage or destruction to any of Lessee's property on the Leased Premises, it agrees to look solely to its insurance for recovery; and, in behalf of any insurer providing insurance to it with respect to its property on the Leased Premises, it hereby waives any right of subrogation which said insurer may have or acquire against Lessor by virtue of payment of any loss under such insurance.

#### **XII.**

(a) Lessee agrees to maintain at its own cost and expense throughout the term hereof public liability and property damage insurance in an amount and with a company reasonably acceptable to Lessor. Such policies shall name Lessor and Lessee as the insureds and shall be non-cancellable with respect to Lessor except after thirty (30) days advance written notice. A copy of such policy shall be delivered to Lessor.

(b) Lessor agrees to maintain adequate casualty and liability insurance with respect to the Building and other improvements owned by Lessor now or hereafter located on the Leased Premises. Copies of such policies shall be delivered to Lessee.

(c) In the event the Building is totally or substantially destroyed by fire or other casualty, either party may terminate this Lease upon thirty (30) days written notice to the other party.

**XIII.**

Lessee hereby grants to Lessor a lien and security interest on all fixtures and personal property at anytime situated in or upon said Leased Premises other than the Additional Property to secure the payment of all rentals and other obligations payable and to become payable to Lessor hereunder and to secure the performance of all obligations of Lessee hereunder. This lien shall be cumulative of and in addition to all other express liens and security interests granted by Lessee to Lessor and to the landlord's lien and any and all other liens existing under any statute or law to secure the same, none of said liens being waived.

**XIV.**

If Lessee should fail to completely vacate the Leased Premises upon the expiration or termination of this lease, then Lessee shall pay as liquidated damages an amount equal to one-hundred fifty percent (150%) of the regular monthly installments of rental for each month which fails to vacate said premises. No holding over by Lessee after the termination or cancellation of this Lease shall operate to extend the term of this Lease for a period longer than a month to month tenancy.

**XV.**

Lessee shall be in default under this Lease upon the occurrence of any one or more the following events or conditions (herein called "Event of Default"):

A. Failure to pay full amount of rental or any other payment required hereunder within ten (10) days after written notice of such failure is delivered by Lessor to Lessee; provided, however, that such ten (10) days notice period shall be inapplicable after Lessor has delivered notice of such failure to pay rent or any other payment to Lessee three (3) times during the term of this Lease, in which event default hereunder shall occur upon the failure of Lessee to pay the full

amount of rental or any other payment on the date required without the necessity of prior notice of such failure having been given to Lessee.

B. The failure of Lessee to perform or comply with any of its other obligations hereunder within thirty (30) days after written notice of such specific failure to perform or to comply having been delivered by Lessor to Lessee.

C. Lessee's dissolution, termination of existence, insolvency or business failure, or an assignment by Lessee for the benefit of creditors or the commission of act of bankruptcy, or the institution of voluntary or involuntary bankruptcy proceedings, or the taking over of Lessee's leasehold interest in this Lease by a receiver for Lessee or the placing of Lessee's leasehold interest in this Lease in the custody of any court or an officer or appointee thereof.

#### **XVI.**

Upon the occurrence of an Event of Default as set forth in Paragraph XV hereof, Lessor shall be entitled to the following remedies:

A. Lessor may accelerate the rent for the balance of the term hereof and declare the entire amount thereof immediately due and payable.

B. Lessor may elect to terminate this Lease.

C. Lessor may elect, without terminating this Lease, to terminate Lessee's right to possession of the Leased Premises. In such event, Lessor may rent the Leased Premises or any part thereof to any person or persons at such rental (granting reasonable concessions if necessary) and for such period of time as Lessor determines practicable, for the account of Lessee, and credit to Lessee any rental thus received, less the expenses of repossession, preparing the Leased Premises for reletting and the reletting thereof. Lessee shall be liable for any deficiency of such rental below the total rental herein provided for the unexpired balance of the term, and such sum or sums shall be paid by Lessee in monthly installments on the

rental payment dates as specified herein. Suits to enforce such liability may be brought by Lessor at any time and from time to time on one or more occasions. Lessor shall in no event be liable for failure to relet the Leased Premises; or if the Leased Premises are reletted, for failure to collect the rent under such reletting.

Each right and remedy to which Lessor may be entitled upon the occurrence of an Event of Default, including those expressly set forth herein, those set forth in any other documents executed in connection herewith, and those granted by law, are cumulative; and, upon an occurrence of an Event of Default, Lessor may proceed, at his option, with any one or more available remedies with respect to this Lease. Any act or omission to act by Lessor in connection with any such available remedy or remedies shall not constitute an election of remedies or the waiver or abandonment of any other remedy.

#### **XVII.**

Neither the acceptance of rent by Lessor nor the failure by Lessor to complain of any action, non-action or default of Lessee shall constitute a waiver of any of Lessor's rights hereunder. Waiver by Lessor of any right for any default of Lessee shall not constitute a waiver of any right for either a subsequent default of the same obligation or for any other default.

#### **XVIII.**

Any notices of communications to be given to either party hereunder shall be given in writing and may be effected by personal delivery or by registered or certified United States mail with postage prepaid as follows:

In the case of Lessor:

Chameleon Radio Corporation  
10865 Rockley Road  
Houston, Texas 77099  
Attention: Don Werlinger

**In the case of Lessee:**

**Landrum Enterprises, Inc.  
1908 West Loop  
P. O. Box 1269  
El Campo, Texas 77437-1269  
Attention: J.H. Landrum**

**Either party hereto may designate by the prescribed written notice to the other a different address with respect to notices to be furnished to such party.**

**If notice is effected by personal delivery hereunder, the date and hour at which such delivery was effected shall fix the time of giving of notice. In the event notice is effected by registered or certified United States mail hereunder, the date and hour that the envelope (properly addressed, sealed and with postage prepaid) containing such notice is deposited with a registry clerk of any United States Post Office in the State of Texas shall fix the time of giving of notice.**

**XIX.**

**Upon the expiration of the term of this Lease, Lessee shall be obligated to remove from the Leased Premises the Additional Property and all other fixtures and personal property of Lessee erected on the Leased Premises and surrender the Leased Premises to Lessor in reasonably good condition (ordinary wear and tear and damage caused by casualty or due to Lessor's failure to make repairs excepted), unless an Event of Default exists hereunder at such time. If an Event of Default then exists, Lessee shall remove the Additional Property and, at Lessor's option shall either remove all other fixtures and personal property of Lessee from the Leased Premises, or shall allow all of such other fixtures and personal property that are subject to Lessor's landlord liens to remain on the Leased Premises to be dealt with by Lessor in accordance with applicable law.**

**XX.**

If any provision of this Lease shall ever be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of this Lease, but such other provisions shall continue in full force and effect.

**XXI.**

Lessee shall not assign the Lease except under the following conditions:

- A. Delivery of written notice to Lessor of the proposed assignment at least thirty (30) days prior to the proposed date thereof, together with the name, address and complete financial statement of the proposed assignee;
- B. The express written assumption by the assignee of the obligations of Lessee herein (but such assumption shall not release Lessee of such obligations);
- C. No Event of Default shall exist hereunder, either at the time of delivery of the written notice to Lessor or on the date of the assignment.

Notwithstanding the foregoing, the Lessee shall not be prohibited from subleasing the Leased Premises to any third party or assigning the Lease to the purchaser of the assets of Lessee with respect to the radio broadcast station to be operated by Lessee at the Leased Premises.

**XXII.**

Lessee shall pay for electricity service to the Building and the Additional Property directly to the supplier thereof.

**XXIII.**

(a) Lessee shall be responsible for its portion of all taxes attributable to the Additional Property and fixtures and other personal property owned by Lessee now or hereafter located on the Leased Premises. Lessor shall be responsible for its portion of all taxes attributable to the Land, the Building, and all other improvements owned by Lessor now or hereafter located on the Land.

(b) Lessor shall promptly pay all ad valorem taxes and any special assessments on the Land, the Building and all other improvements owned by Lessor located on the Land and shall deliver to Lessee copies of paid receipts prior to delinquency thereof. Should Lessor fail to pay such taxes or special assessments prior to delinquency, Lessee may, at his option, pay such taxes or special assessments and Lessor shall thereupon be obligated to reimburse Lessee within thirty (30) days from written demand for the amount thereof. Lessor shall be in default hereof in the event it fails to reimburse Lessee as provided above, or fails to deliver to Lessee paid receipts for all taxes and any special assessments within thirty (30) days after written demand therefor, or fails to pay all taxes and any special assessments and to deliver to Lessee paid receipts therefor prior to the date of delinquency thereof on two (2) or more occasions during the term hereof.

(c) Lessee shall either (i) reimburse to Lessor any portion of Lessor's ad valorem taxes or special assessments attributable to the Additional Property or any fixtures or personal property owned by Lessee now or hereafter located at the Leased Premises within thirty (30) days following receipt of invoice therefor, or (ii) if such items are separately assessed, Lessee shall pay such amounts directly to the appropriate taxing authority prior to delinquency.

#### **XXIV.**

Provided that Lessee is not then in default under the terms of this Lease either at the time of exercise or at the Cancellation Date (as defined below), Lessee shall have the right, at its sole option, to terminate this Lease, such termination to be effective as of the last day of any month, upon not less than sixty (60) days prior written notice to Lessor specifying the effective date of cancellation (the "Cancellation Date"). Lessee's exercise of this cancellation option shall be irrevocable upon delivery of the notice thereof to Lessor, and Lessee shall be obligated to surrender possession of the



Leased Premises to Lessor on or before the Cancellation Date in accordance with Article XIX of the Lease, ordinary wear and tear excepted.

**XXV.**

Provided that Lessee is not in default in the performance of its covenants under this Lease, either at the time of exercise or at the time the extended term commences Lessee is hereby granted the option to renew the term of this Lease for three periods of five (5) additional years each (the "Renewal Terms") to commence at the expiration of the initial term of this Lease or the previous Renewal Term, as applicable. Each renewal shall be upon the same terms and conditions of the Lease except that base rental payable by Lessee during each Renewal Term shall be equal to the base rental rate(s) paid by Lessor under the Ground Lease (as defined below) for each such period.

**XXVI.**


By instrument of even date herewith, Lessor has assumed the obligations of Lessee as lessee under that certain Lease Agreement dated August 22, 1988 (the "Ground Lease") by and between Cathryn Long Clark, Independent Executrix of the Estate of John G. Long, Deceased, and James M. Allen, Independent Administrator of the Estate of Mary Adams Long, Deceased, as lessor, and North Star Communications, Inc, as lessee, lessee's interest thereunder being assigned to Lessee by instrument dated December 22, 1994 and lessor's interest thereunder being subsequently assigned to J.F. Long and Cathryn L. Clark, a Texas Partnership ("Ground Lessor"). Lessor agrees to send copies of all notices to it from the Ground Lessor thereunder to Lessee promptly upon receipt thereof. Lessor acknowledges and agrees that following the expiration of any applicable cure periods, and upon notice to Lessor, Lessee can elect to cure any defaults of Lessor under the Ground Lease on Lessor's behalf. Any sums so expended by Lessee in order to cure such default(s) by Lessor shall be reimbursed to Lessee within ten (10) days following receipt by Lessor of an invoice reasonably detailing such amounts. Failure by

Lessor to remit reimbursement to Lessee within such ten (10) day period shall entitle Lessee to deduct such amounts from future rental payments to Lessor.

EXECUTED effective as of the date first written above.


LESSOR:

CHAMELON RADIO CORPORATION

By:   
Name: Don Weninger  
Title: PRESIDENT

LESSEE:

LANDRUM ENTERPRISES, INC.

By:   
Name: T.H. Landrum  
Title: PRESIDENT



NN 96-173

ANN SAVENDY  
JAMES A. CASEY  
KAREN L. CASSEY  
ANNE GOODWIN CRUMP  
VINCENT J. CURTIS, JR.  
PAUL J. FELDMAN  
ERIC FISHMAN  
RICHARD HILDRETH  
EDWARD W. HUMMERS, JR.  
FRANK R. JAZZO  
CHARLES H. KENNEDY  
KATHRYN A. KLEIMAN  
PATRICIA A. MAHONEY  
M. VERONICA PASTOR  
GEORGE PETRUTSAS  
LEONARD R. RAISH  
JAMES P. RILEY  
MARVIN ROSENBERG  
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HOWARD M. WEISS  
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(1936-1981)  
RUSSELL ROWELL  
(1948-1977)

RETIRED  
EDWARD F. KENEHAN  
FRANK U. FLETCHER

CONSULTANT FOR INTERNATIONAL AND  
INTERGOVERNMENTAL AFFAIRS  
SHELDON J. KRYB  
U. S. AMBASSADOR (H&L)

OF COUNSEL  
EDWARD A. CAINE\*

WRITER'S NUMBER  
(703) 812-0450

COPY

June 20, 1995

VIA HAND DELIVERY

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

Re: STA Issued to  
KFCC, (formerly KIOX)  
Bay City, Texas

Dear Mr. Caton

On May 23, 1995, I requested on behalf of South Texas Broadcasting, Inc., that the Mass Media Bureau cancel the special temporary authorization issued May 5, 1995 to Chameleon Radio Corporation, which had only days before become the licensee of KFCC, Bay City, Texas. This letter renews the May 23 request for cancellation of the STA. It is supported by the attached engineering statement of Carl T. Jones Corporation.

The STA permits operation of KFCC on 1270 kHz from a site adjacent to Houston, Texas, approximately fifty (50) miles from KFCC's licensed site at Bay City. Under the STA, KFCC is allowed ~~in~~ nondirectional operation with daytime power of 300 watts and ~~in~~ nighttime power of 50 watts.

THE STA VIOLATES CLEAR TECHNICAL STANDARDS

The Bay City STA has two features which we believe have ~~never~~ previously existed in common in a broadcast STA, either one of which by itself would most often lead to denial of an STA request. They are:

- 1) No service - day or night - is provided to the community of license of the station operating on the STA, and
- 2) extensive new prohibited overlap and interference is created to the service area of licensed broadcast operations.

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Each of these features is documented in the attached engineering statement.

Exhibit 1 shows that the STA's daytime 0.5 mV/m contour (which would not, even if it enclosed Bay City, provide service to this city of almost 20,000 population) stops 17 kilometers short of Bay City. That exhibit also shows that the STA's nighttime 9.62 mV/m contour falls almost 75 kilometers short of Bay City. It is, thus, beyond argument that under the STA, KFCC has ceased to function by any measure as a Bay City radio station, as it is licensed.

Exhibit 2 shows that under the STA, KFCC is creating a new area of prohibited overlap to the duly licensed operation of KWHI, 1280 kHz, Brenham, Texas. The text of the engineering statement (p.3) shows this new prohibited overlap area to enclose 154 square kilometers and a population of 3,797 persons. Moreover, the engineering statement shows (pp. 3-4 and Exhibit 3) that the nighttime STA operation interferes with the duly licensed nighttime operation of KESS, Fort Worth, Texas.

To eliminate the new area of prohibited overlap to KWHI, the engineering statement shows that the daytime STA power must be reduced to approximately 50 watts. To eliminate nighttime interference to KESS, the nighttime STA power must be reduced to approximately 20 watts.

**CHAMELEON HAS NO EQUITABLE RIGHT TO RETAIN THE STA**

On its face, the STA shows that it was issued because of a mistaken conclusion. The STA grant letter of May 5 demonstrates that the AM Branch believed the distance between sites, licensed site to STA site, was .25 Km. (Amended Figure E-1 of the STA request, which Chameleon's president sent by facsimile to the AM Branch May 2, shows the handwritten calculation of the distance between two points as "0.248 Km." Note that amended Figure E-1 describes an "existing 180' tower." Figure E-1 of the STA request as filed April 21 depicts no such tower.)

The AM Branch rescinded the grant of the STA, but that order was stayed on May 25. If the rescission was stayed because of a belief that Chameleon, having constructed KFCC's STA facility under authority of the May 5 STA grant letter, had some equitable right to continue operation, that belief is mistaken. No such equity in Chameleon's favor exists and, in any event, interference to the licensed signals of KWHI and KESS cannot be justified by whatever equitable claims Chameleon might assert.

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Even assuming that Chameleon has expended funds to construct the facility now in use by KFCC, it has gained no equitable right to maintain the STA operation. Chameleon was unjustified in relying on the AM Branch's mistaken May 5 letter, and was not authorized before that letter to expend funds to construct the STA facility.

The May 5 letter authorized Chameleon "to relocate the station .25 Km from its presently authorized site to the geographic coordinates NL 29° 38' 10" WL 95° 32' 32" due to loss of authorized site." The relocation permission contains a fundamental inconsistency: moving .25 Km from the licensed Bay City site will not put the STA tower at the specified coordinates. Chameleon surely recognized this (the true distance between the licensed site and the specified coordinates is some 50 miles) but, nevertheless, Chameleon chose to move not the authorized .25 Km but rather to the specified coordinates, without drawing this inconsistency to the attention of the AM Branch's staff and seeking clarification: i.e., was it permitted to move KFCC .25 Km or 50 miles?

Moreover, Chameleon's position (i.e., the claimed need to use a site other than the licensed site) is one it voluntarily assumed. Chameleon requested the STA April 21, although it could not have acquired KFCC earlier than April 18, the day the FCC granted BAL-950216EA. Chameleon had the right under its Agreement of Purchase and Sale of Assets with the assignor to insist upon an assignment of the AM site lease, or to refuse to close. (See, Sections 3.3(b), 5.1(c) and 7.1(a)(ii) of the Agreement of Purchase and Sale of Assets, filed March 13, 1995, as an amendment to BAL-950216EA, and Exhibit 3.3D, the assignment of lease, filed March 22, 1995.) It is evident, if it is a fact that Chameleon today has no right to use the licensed site, that it elected to close sometime between April 18 and April 21 without obtaining that to which it was entitled, the AM site lease. Then, Chameleon filed what must have been prepared well in advance of April 21 - a request to move the Bay City station fifty miles under the guise of an STA in order to become a Houston station.

Furthermore, Chameleon made no showing that it had sought and failed to locate a temporary site closer to Bay City, one from which it could, on a temporary basis, approximate KFCC's service to its city of license. Chameleon has, in short, made no effort to persuade the Commission that it is unable to do any better in providing service to Bay City than what it is providing today: nothing. Because Chameleon could not have owned KFCC before April 18 and filed the STA request on April 21 with a specified site fifty miles northeast of the licensed site, it is

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perfectly clear that Chameleon made no effort to preserve service to Bay City.

In these circumstances, Chameleon cannot accurately be found to possess some equitable right to continue operating KFCC by STA. It is interfering with two licensed operations, and it is not serving Bay City. Only a mistaken conclusion by the staff of the AM Branch led to the issuance of the May 5 STA letter. Absent that mistake from which Chameleon has no equitable right to benefit, the STA would never have been granted.

#### PRECEDENT DOES NOT SUPPORT THE STA

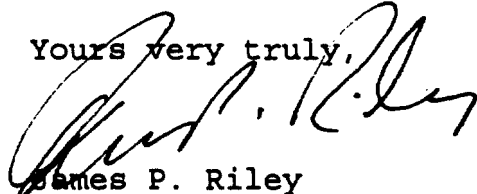
The STA granted Chameleon does not authorize, with variances from the terms of the station's license, substantially the licensed service of KFCC. This STA is, instead, an authorization to operate a substandard Houston station which has never been licensed or even applied for. Section 309(f) of the Communications Act bars the grant of such a temporary authorization without an application having already been filed, and even then permits a temporary authorization only if "there are extraordinary circumstances requiring temporary operations in the public interest..." There are no such extraordinary circumstances here; as KFCC is operating it does no more than add one more radio signal to the many signals in the Houston metropolitan area. See, Washoe Empire, 36 RR2d 1435 (1976) (permitting temporary operation of a television translator station to provide the only CBS television service to Elko, Nevada). See also, Entertainment Communications, Inc. 45 RR2d 1685 (1979) (granting an STA which the Commission and the requesting party implicitly recognized exceeded the scope of an STA "which would normally be issued by the Commission's staff," but which nevertheless was designed to maintain service to the requesting party's city of license, not to abandon that city as in Chameleon's treatment of Bay City), see also, Letter to Ann Bavender, 68 RR2d 523 (1990) (granting STA limited to providing a signal to the licensed service area of the requesting party), see also, WLBE 790, Inc., 69 RR2d 716 (1991) (denying an STA, notwithstanding evidence of Cuban interference to the requesting station's signal, because the proposed STA operation would violate Section 73.37(a), holding that Section 73.37(a) and other interference - prohibiting rules are applicable to STAs.)

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For the foregoing reasons, the Mass Media Bureau should act promptly to terminate the special temporary authorization issued to Chameleon Radio Corporation.

Yours very truly,



James P. Riley  
Counsel for  
South Texas Broadcasting, Inc.

Enclosures

cc: Mr. Larry Eads  
Stuart Bedell, Esquire  
Mr. James Burtle  
Mr. Don Werlinger



***CARL T. JONES***  
***CORPORATION***

**ENGINEERING STATEMENT OF CYNTHIA M. JACOBSON  
IN SUPPORT OF A  
REQUEST TO CANCEL THE  
SPECIAL TEMPORARY AUTHORIZATION  
OF  
KIOX(AM) - BAY CITY, TEXAS**

**Prepared for: South Texas Broadcasting, Inc.**

I am a Radio Engineer, an employee in the firm of Carl T. Jones Corporation, with offices located in Springfield, Virginia.

My education and experience are a matter of record with the Federal Communications Commission.

This office has been authorized by South Texas Broadcasting, Inc., ("South Texas"), licensee of standard broadcast station KENR(AM), Houston, Texas to prepare this statement in support of a request to cancel the Special Temporary Authorization granted Chameleon Radio Corporation, licensee of KIOX(AM). On May 5, 1995,<sup>1</sup> the Federal Communications Commission ("FCC"), authorized KIOX(AM) a STA to operate on 1270 kHz from a new transmitter site with 1.0 kilowatts daytime and 0.1 kilowatts nighttime with a nondirectional transmitting antenna. The FCC subsequently modified this

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<sup>1</sup> The correct coordinates for the KIOX STA site are N. Lat. 29° 38' 10", W. Long. 95° 32' 22". The KIOX STA site is located approximately 79.5 kilometers from the KIOX licensed site. The theoretical efficiency of a 54.86 m (180') tower is approximately 303.3 mV/m/kW, not 323.5 mV/m/kW.

authorization by letter dated May 12, 1995<sup>2</sup> to specify a reduced power of 0.3 kilowatts daytime and 0.05 kilowatts nighttime utilizing a nondirectional antenna.

The proposed STA site of KIOX is located approximately 79.5 kilometers from KIOX's licensed site. Attached as Exhibit 1 is a map depicting the proposed 0.5 mV/m and the 5.0 mV/m daytime contours and the proposed nighttime interference free contour of the KIOX STA operation. As indicated on the map, KIOX will not serve their city of license, Bay City, with the requisite signal as required by Section 73.182 of the Rules. The proposed 0.3 kW daytime operation will place a field strength of approximately 0.3 mV/m over the city of Bay City. The proposed 0.05 kW nighttime operation will place a field strength of approximately 0.12 mV/m over the city of Bay City. KIOX will not serve their community of license with a primary, secondary or even urban signal.

The proposed STA authorization of KIOX will result in a new area of overlap with first adjacent station KWHI, Brenham, Texas. KWHI operates on 1280 kHz with a power of 1.0 kW daytime and 0.072 kW nighttime nondirectionally. The licensed KWHI authority and the licensed KIOX authority were issued prior to technical standards wherein 0.5 mV/m and 0.5 mV/m contour overlap were the protected/interfering contours. With the

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<sup>2</sup> Coordinates specified in the FCC letter for the STA operation differ slightly from those requested in the April 21, 1995 filing. The theoretical efficiency of 323.5 mV/m/kW as specified in the FCC letter, does not correspond to a 54.86 m (180') tower.

adoption of the present technical standards,<sup>3</sup> the proposed STA will result in prohibited overlap with KWHI. The first adjacent channel protection ratio is 6 dB, thus the interfering 0.25 mV/m contour of the proposed KIOX STA must not overlap the protected 0.5 mV/m contour of KWHI. Chameleon contends that the existing prohibited overlap between the licensed facilities of KWHI and KIOX, based on measured soil conductivities, will be reduced with the proposed STA operation of KIOX. This office does not accept the measured data<sup>4</sup>, but for comparison purposes, the measured soil conductivities were used in the preparation of Exhibit 2. The area of new overlap consists of 3,797 persons in an area of 154 square kilometers. To eliminate this area of new overlap, the daytime power of the proposed KIOX STA operation would need to be reduced to approximately 0.05 kW.

Further, the proposed nighttime STA operation of KIOX will cause objectionable interference to co-channel station KESS, Fort Worth, Texas as defined by Section 73.182 of the Rules. The KIOX STA operation will, on a site to site basis, raise the RSS nighttime limitation to KESS. As a matter of fact, the proposed KIOX STA operation is the highest contributor to the limit. The resulting nighttime limit of KESS will be 4.520 mV/m, whereas

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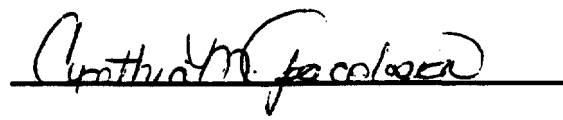
<sup>3</sup> MM Docket No. 87-267.

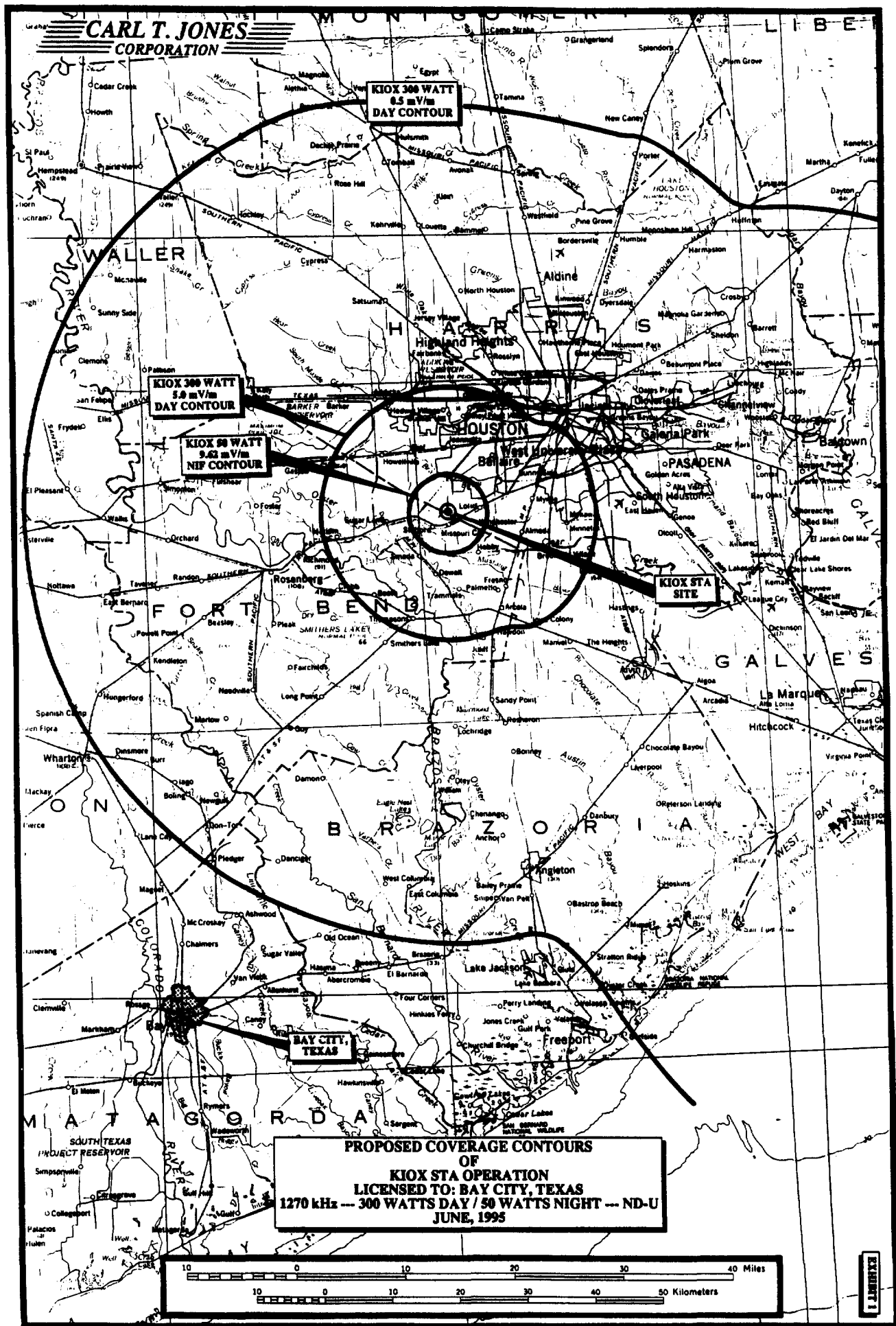
<sup>4</sup> Sufficient enough close-in measurements were not conducted to establish the efficiency of the radiating element.

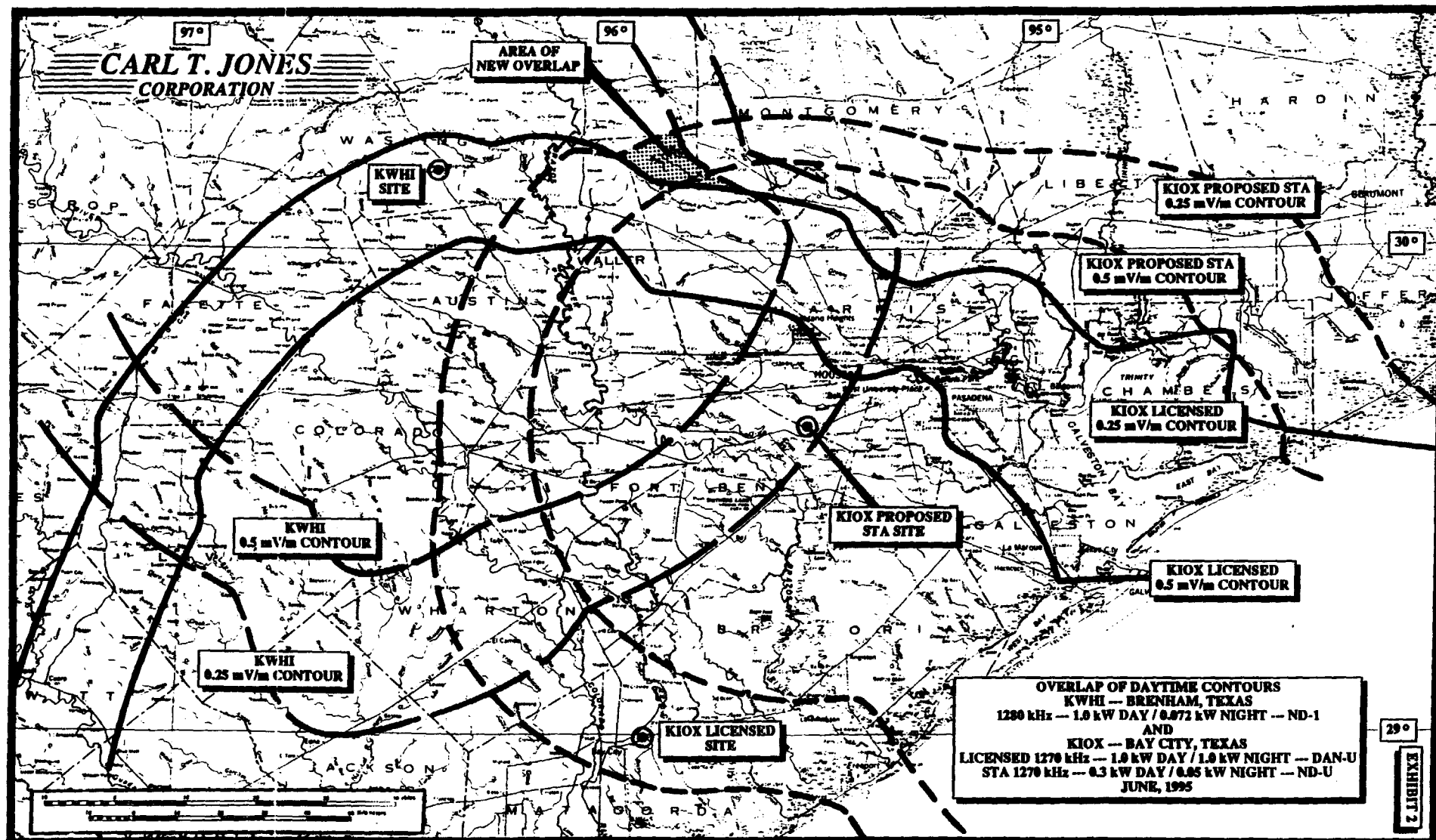
the present nighttime limit of KESS is 4.003 mV/m, see Exhibit 3. Accordingly, the proposed nighttime STA operation of KIOX will not provide the required protection to the KESS site. The Commission Rules prohibit a station from entering into the 50% exclusion value threshold or the 25% exclusion value threshold. KIOX is allowed to increase its radiation but only up to the 25% exclusion value threshold. The maximum radiation permitted KIOX in the direction of KESS is 43.5 mV/m or approximately 0.02 kW.

This statement and associated exhibits were prepared by me or under my direct supervision and are believed to be true and correct.

Dated: June 16, 1995

  
Cynthia M. Jacobson





## NIGHT CHANNEL STUDY

SUMMARY OF LIMITS TO KESS  
N 32-43-36 W 097-11-301270 kHz FORT WORTH, TX US  
E(Nom): 2.50005.0000 kW 630.86 mV/m @ km Dom Cl: 3 Dom Stat: L  
Hours: M Mode: DA2 Reg2 Cl: B Not stat:

Call	City	St Co	Latitude (D-M-S)	Longitude (D-M-S)	Az (Deg)	Dist (km)	Min/Max (Deg)(Deg)	E(Hor) (mV/m)	E(Vert) (mV/m)	E(Sky) (mV/m)	Limit (mV/m)	RSS (mV/m)	Code 12345
KIOXSTA	BAY CITY	TX US	N 29-38-10	W 095-32-22	335.85	377.8	20.00/31.45	67.82	62.26	.1685244	2.0986		
+ WOOT	NEW ORLEANS	LA US	N 29-53-43	W 090-00-16	296.59	751.5	9.15/15.94	1473.96	1439.85	.0709492	2.0431	2.043	LO
XEPV	PAPANTLA	VC MX	N 20-28-55	W 097-19-02	.50	1361.4	2.97/ 6.88	317.04	316.42	.0322126	2.0385	2.886	P
- KWSH	WEWOKA	OK US	N 35-10-10	W 096-32-30	192.63	278.1	26.73/40.04	446.00	428.73	.2297368	1.9699	3.494	LO
XERPL	LEON	GT MX	N 21-06-43	W 101-40-28	18.01	1365.2	2.94/ 6.85	305.78	305.18	.0320026	1.9533	4.003	P
50% Exclusion													
XEQH	IXMIGUILPAN	HG MX	N 20-30-34	W 099-12-30	7.96	1372.9	2.89/ 6.77	295.48	294.93	.0318648	1.8796		P
XFOH	IXMIGUILPAN	HG MX	N 20-29-04	W 099-13-05	7.98	1375.8	2.87/ 6.75	281.64	281.15	.0317702	1.7865	4.384	P
- K	SPRINGFIELD	MO US	N 37-15-51	W 093-19-04	216.10	615.5	11.77/19.83	974.77	932.32	.0915551	1.7072	4.704	LO2
XENX	OAXACA	OA MX	N 17-04-36	W 096-42-07	358.47	1740.7	.80/ 3.89	362.10	361.97	.0226968	1.6431	4.983	P
XERRT	CIUDAD MADERO	TA MX	N 22-15-24	W 097-51-27	3.08	1165.9	4.41/ 8.95	196.87	196.10	.0400607	1.5712		P
XEPRT	CIUDAD MADERO	TA MX	N 22-14-30	W 097-50-01	2.96	1167.4	4.40/ 8.93	196.87	196.11	.0399865	1.5683	5.224	P
XERRT	CIUDAD MADERO	TA MX	N 22-14-30	W 097-50-10	2.98	1167.4	4.40/ 8.93	196.87	196.11	.0399860	1.5683		P
XEZU	ZACAPU	MC MX	N 19-48-14	W 101-47-10	16.70	1507.5	2.06/ 5.60	281.64	281.39	.0278265	1.5660	5.454	P
NEW	TEOLOAPAN	GR MX	N 18-22-06	W 099-52-31	9.01	1618.7	1.43/ 4.74	305.78	305.64	.0252273	1.5421	5.668	P
XEHD	DURANGO	DU MX	N 24-01-41	W 104-40-11	35.38	1211.7	4.04/ 8.42	199.15	198.51	.0372145	1.4775		P
XEHD	DURANGO	DU MX	N 24-01-31	W 104-40-11	35.38	1212.0	4.04/ 8.42	199.15	198.51	.0372039	1.4771	5.857	P
NEW	TAMAZULA DE GOR	JA MX	N 19-39-22	W 103-12-43	21.18	1571.5	1.69/ 5.10	281.64	281.49	.0261283	1.4710	6.039	P
25% Exclusion													
XEOH	CIUDAD CAMARGO	CH MX	N 27-40-19	W 105-10-40	51.82	950.6	6.47/11.96	140.82	139.68	.0511982	1.4303		P
XEWN	GOMEZ PALACIO	DU MX	N 25-33-08	W 103-29-22	35.99	1004.6	5.89/11.11	140.82	139.73	.0484184	1.3531		P
EGL	NAVOJOA	SO MX	N 27-04-52	W 109-27-15	59.06	1336.8	3.13/ 7.12	216.22	215.75	.0306625	1.3231		O
XEVHT	VILLAHERMOSA	TB MX	N 17-59-01	W 092-54-51	346.19	1694.0	1.04/ 4.21	281.64	281.58	.0232962	1.3120		P
WNOG	NAPLES	FL US	N 26-15-26	W 081-40-33	299.29	1662.5	1.20/ 4.43	305.17	304.91	.0207269	1.2640		AP
YVOU	EL VIGIA	VE N	8-35-00	W 071-40-00	319.29	3753.9	.00/ .00	978.60	978.60	.0063096	1.2349		O
XENX	MAZATLAN	SI MX	N 23-11-55	W 106-25-20	38.47	1392.8	2.76/ 6.59	199.15	198.83	.0303150	1.2055		P
KNWZ	THOUSAND PALMS	CA US	N 33-51-04	W 116-23-36	88.67	1786.3	.58/ 3.59	329.45	329.39	.0176361	1.1618		LO
XEYW	UMAN	YC MX	N 20-52-12	W 089-44-41	332.34	1510.1	2.04/ 5.58	216.22	216.02	.0268173	1.1586		O
HCUM2	GUAYAQUIL 2	EC S	2-12-00	W 079-54-00	336.35	4287.8	.00/ .00	978.60	978.60	.0058408	1.1432		O
KTFI	TWIN FALLS	ID US	N 42-33-30	W 114-32-00	120.02	1871.6	.18/ 3.05	376.59	376.58	.0141748	1.0676		LO
XEWN	GOMEZ PALACIO	DU MX	N 25-33-09	W 103-29-22	35.99	1004.6	5.89/11.11	109.08	108.24	.0484200	1.0482		O
Y	RADIO ATENAS	NU N	11-26-00	W 085-50-00	335.67	2636.2	.00/ .00	437.59	437.59	.0118974	1.0412		O
T	EXCLUSIVA	GT N	14-38-00	W 090-36-00	342.80	2119.2	.00/ 1.65	309.50	309.50	.0167333	1.0358		O
WLIK	NEWPORT	TN US	N 35-57-49	W 083-12-31	258.37	1331.7	3.17/ 7.17	186.63	185.37	.0277153	1.0275		LO
KSCB	LIBERAL	KS US	N 37-03-13	W 100-53-42	143.85	587.7	12.44/20.80	53.52	51.66	.0979222	1.0117		LO
KIOX	BAY CITY	TX US	N 28-59-51	W 095-54-42	343.91	432.2	17.44/27.96	16.54	9.90	.1449374	0.2869		LO

**From:** Ken Adamcik  
**To:** A727A12:(DEMICK)  
**Date:** 6/14/95 2:33pm  
**Subject:** KFCC update

See attached file.

thanks,  
Ken

**Files:** f01:kfcc.2



MM 96-109

**From:** Emrick, Dan  
**To:** A8:JBURTLE  
**Date:** 6/14/95 9:51pm  
**Subject:** KFCC update -Forwarded

Forwarded mail received from: A727A12:A809A15:A457A18:CAD:PCUNIX:OADAL5:FOBMAIL:FCCHU:KADAMCIK

Jim,

Here's Houston's report todate. Most of this we already know. Please note the paragraph where the inspector states that the source of the KFCC signal near Houston is from a new construction! Doesn't this have a major effect on our next step?

Dan

**CC:** JYOUNG

**Files:** m0:MESSAGE, m1:kfcc.2